

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DR. MAX ARNETT,

Plaintiff,

v.

OHIO NATIONAL LIFE ASSURANCE
CORPORATION

Defendant.

Case No. C05-5639 FDB

ORDER DENYING MOTION FOR
RECONSIDERATION RE: ORDER
EXCLUDING PLAINTIFF'S
PROPOSED EXPERT WITNESSES

This matter comes before the Court on Plaintiff's motion for reconsideration. Plaintiff request this Court reconsider its Order prohibiting Plaintiff's treating physicians from rendering medical opinions based on factors that were not learned in the course of their respective treatment of the Plaintiff, including providing rebuttal expert testimony. After reviewing the motion for reconsideration and the record, Court is fully informed and hereby denies the motion for reconsideration.

STANDARDS GOVERNING RECONSIDERATION


Pursuant to Local Rules W.D. Wash. CR 7(h)(1), motions for reconsideration are disfavored,

1 and will ordinarily be denied unless there is a showing of (a) manifest error in the prior ruling, or (b)
2 facts or legal authority which could not have been brought to the attention of the court earlier,
3 through reasonable diligence. Plaintiff has not made the requisite showing as to either of the
4 grounds for reconsideration under CR 7(h)(1). Plaintiff rather, attempts to use this motion to revisit
5 the factual arguments made in support of the admissibility of the proposed expert testimony of
6 Plaintiff's treating physicians. The Court is not persuaded by this reargument.

7 Plaintiff's treating physicians may testify as fact witnesses. The treating physicians are
8 entitled to express opinions as to causation, diagnosis, prognosis and extent of disability where such
9 opinions are based on treatment. Sprague v. Liberty Mut. Ins. Co., 177 F.R.D. 78 (D. N.H. 1998);
10 Bucher v. Gainey Transp. Serv. of Indiana, Inc., 167 F.R.D. 387, 390 (M.D. Pa. 1996). The treating
11 physicians are prohibited from rendering medical opinions based on factors that were not learned in
12 the course of their respective treatment of the Plaintiff. This prohibition includes rebuttal expert
13 testimony.

14 Accordingly, Plaintiff's Motion for Reconsideration [Dkt #32] is **DENIED**.

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17 DATED this 13th day of November, 2006

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21 FRANKLIN D. BURGESS
22 UNITED STATES DISTRICT JUDGE
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